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purchase of the proprietors' rights ; (2) to the Master of the Ordnance to give directions for sending an experienced engineer with Governor FitzWilliam to make plans and surveys and submit an estimate, said engineer to have his pay increased to twenty shillings a day during this service ; and (3) to the Secretary at War to give directions for augmenting the independent company to 150 men, officers included.]

(1734.) [p. 215.]

12 June. [Treasury report on the purchase of the islands referred to the Attorney and Solicitor General.] [p. 488.]

7 Nov. [Reference to the Committee of] a Report made by Richard FitzWilliam Esqr. His Majestys Governor of the Bahama Islands with an Account of the Severall Repairs and New Works necessary to be done at Fort Nassau in the Island of Providence one of the said Bahama Islands together with Plans thereof and an Estimate of the Charge attending the same And also with an Account of the Stores which are already there and what Stores will be further necessary to be sent thither. [IV. p. 35.]

(1735.)

6 Mar. [Referred by Committee to Board of Trade.] [IV. p. 113.]

(1735.)

30 July. [Reference to the Committee of the] Address of the Council and Assembly of the Bahama Islands, praying that His Majesty would be graciously pleased to Direct that care be speedily taken to put the said Islands in a better Posture of Defense than they are at present and that some means may be thought of to Augment the Number of Inhabitants which are at least one third Diminished by a Contagion that has lately razed amongst them. [IV. p. 216.]

(1735.)

14 Aug. [Referred by Committee to Board of Trade.] [IV. p. 221.]

21 Feb.

Massachu-
setts Bay.

[272.] [Reference to the Committee for Appeals of the petition of Samuel Waldo of Boston, Mass., for leave to appeal from a judgment of the Superior Court at Boston, 8 Aug., 1732, in the petitioner's action for recovering from Thomas Fairweather possession of all the deeds and writings of the

- petitioner's father, Jonathan Waldo, deceased : also of Waldo's
petition for leave to appeal from a decree of the Governor
and Council, 13 Jan., 1732, affirming a judgment of the Court
of Probates, 27 Dec., 1731, denying his petition that Fair-
weather be compelled to deliver up to him all the books of
accounts, notes, bonds, mortgages and other specialties
belonging to his father's estates.] [p. 114.] 1733.
- [Committee recommend that the appeals be admitted on the
usual security.] 28 Feb. [p. 119.]
- [Orders accordingly. In April William Parkin and Joshua
Channing enter into security of 100*l.* in each of the two suits
for Waldo's prosecution of each appeal.] 29 Mar. [p. 134.]
- [Reference to the Committee for Appeals of Waldo's
petitions for a short day for hearing his two appeals.] 10 May. [p. 163.]
- [The Committee appoint the first meeting in January to
hear both appeals.] 21 June. [p. 179.] (1734.)
- [On a motion made in behalf of Waldo, the Committee order
that, as Thomas Fairweather is dead, the appeals of Samuel
Waldo be revived against the executors, Hannah and John
Fairweather.] 22 Mar. [p. 389.] (1734.)
- [Committee. The two revived appeals to be heard
on 10 Dec.] 5 Nov. [IV. p. 31.] (1734.)
- [The Committee recommend that the judgments of 27 Dec.,
1731, and 13 Dec., 1732, be affirmed and the appeal denied.
The petitions set forth] that being absent at the time of his
Fathers Death the other Executors proved the will of the
said Jonathan before Joshua Willard Judge of the Probate
of Wills and Thomas Fayrweather one of the Executors
possessed himself of all the Testators Books of accompt,
promissory Notes, Bonds Mortgages and other Specialtys ;
That soon after the Petitioners arrival in New England he
accepted the administration committed to him in his absence,
and afterwards applyed to the said Thomas Fairweather for
10 Dec.

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the Books of Accompt &c., which he was denied, whereupon the said Petitioner presented a Petition to the said Judge of Probates that the said Thomas Fairweather might deliver up to the Petitioner the said Books of Accompt &c. but was denied the same by the said Judge of Probates on the 27th of December 1731, from which denial the Petitioner appealed to the Governor and Council of that Province, who on the 13th of January 1731 Affirmed the said Denial or Judgment of the Court of Probates. . . [IV. pp. 37-8.]

(1734.)

12 Dec.

[The Committee recommend that the other appeal of S. Waldo v. Fairweather be upheld, the judgments of 4 July and 8 Aug., 1732, reversed, and the appellant allowed to bring a new action if he shall think fit : This appeal set forth] that he is entitled to Severall considerable real Estates of Jonathan Waldoe his Father late of Boston aforesaid as his Eldest Son and Principal Heir at Law and also as Devisee thereof but that being absent in great Britain at the time of his Fathers Death, Mr. Thomas Fairweather who married one of the Petitioners Sisters taking advantage of such his Absence possessed himself of all the Deeds and Writings relating to the said Several real Estates, and refused to Deliver up the same to the Petitioner on his return back into New England Whereupon the Petitioner on or about the 20th of June 1732 brought His Action before the Justices of Your Majestys Inferior Court held for the County of Suffolk against the said Thomas Fairweather for recovery of the said Deeds To which Action the said Fairweather Pleading not guilty The Petitioner demurred thereto, as being an uncertain Imperfect improper and insufficient Plea in Matter and Form, after which the said Fairweather without leave of the Court razed out his said Plea and Wrote on the face of the Writ a Second Plea But that the Court refused to receive the said second Plea Declaring the first plea of not Guilty, should stand and Ordered the case to be tryed by a Jury, tho' no issue was joined and that the Petitioner had Demurred to the said Plea whereupon the Jury

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found for the said Fairweather Costs of Suit, and on the 4 of July 1732 the Court gave Judgment that Fairweather should recover Costs of Suit, From which Judgment the Petitioner appealed to the next Superior Court of Judicature to be holden for the said County of Suffolk which coming on to be heard on the 8th of August 1732 the following Judgment was given That this Appeale be dismist there being no issue joined when the cause was committed to the Jury, the Plea of not Guilty being not a proper Plea to an Action of Detinue and that the said Samuel Waldoe shall recover against the said Fairweather Costs of Court, That the Petitioner conceiving himself aggrieved by this last Judgment and being deny'd by the said Court leave to Appeale therefrom, upon Application to Your Majesty he was admitted by Your Majestys Order in Council of the 29th of March 1733 to bring this his Petition and Appeale. . .

[IV. p. 39.]

(1735.)

[Orders in accordance with both reports.]

[IV. p. 58.]

9 Jan.

[273.] [Reference to the Committee for Appeals of (1) the petition of Edward Jones, late Secretary and Provost-Marshall of Bermuda, for confirmation of the report of Mr. Holford, one of the Masters of the High Court of Chancery, in accordance with an Order in Council of 9 Aug., 1726, for settling accounts and taxing costs due to him on his appeal against Governor Bennet, and also praying to be allowed subsequent costs with interest on the amount awarded by Mr. Holford: and (2) the petition of Benjamin Bennet to be heard on exceptions taken by him to Mr. Holford's report.—See Vol. II, § 910.]

29 Mar.
Bermuda.

[p. 137.]

[Committee. Holford awarded Jones 106*l.* 6*s.* 3*d.* sterling with 255*l.* 17*s.* 6*d.* costs. On consideration, the Committee] are of opinion that the said Exceptions should be over-rated and the Masters Report Confirmed by His Majesty—And their Lordships are further of Opinion that Interest be allowed on the said 106*l.* 6*s.* 3*d.* after the rate of 5 per Cent. per annum from the 13th day of January 1713 being the time the said

2 Nov.